

**REMARKS**

Applicant respectfully request reconsideration of this application as amended. Claims 1, 6, 8-22, and 25 have been amended, and claims 3, 4, 7, 23, and 24 have been cancelled by this Response. No claims have been added. Therefore, claims 1, 2, 5, 6, 8-22, and 25 are present for examination.

The amendments to the claims made by this Response are not being made for the purpose of patentably distinguishing the claimed invention over the prior art. Instead, these amendments are being made to clarify the claimed inventive subject matter and/or to correct minor clerical-type errors. None of the amendments made by this Response add new subject matter, and all of the amendments made by this Response are fully supported by the originally filed application.

Furthermore, the cancellation of claims by this Response should not be construed as acquiescing to the appropriateness of any rejections set forth by the Examiner, and should not be construed as surrendering any subject matter contained therein. Applicant hereby reserves the right to pursue such cancelled claims, as well as any cancelled subject matter of amended claims, in one or more continuation applications.

### 35 U.S.C. §103(a) Rejection

According to MPEP §2143:

"To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)."

#### *Fredin et al. in view of Beard et al.*

Claims 1, 3-5, and 20 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Fredin, et al. (U.S. Patent No. 6,529,963) in view of Beard (U.S. Patent No. 5,991,830).

Applicant respectfully submits that claims 1, 3-5, and 20 are patentably distinguishable over Fredin in view of Beard. Neither Fredin, nor Beard, nor their combination, discloses, teaches, or suggests an operating system within a host

capable of "determining if the given host-fabric adapter has been initialized for fabric communication, and if the given host-fabric adapter has been initialized for fabric communication, loading a driver that corresponds to the given fabric-attached I/O controller assigned to the host, into the host for communication with the fabric-attached I/O controller, via the interconnection fabric", as required in, for example, claim 20. Furthermore, neither one teaches "before loading a driver for the I/O controller into the host, sending a verification message to the I/O enclosure, via the interconnection fabric, to determine whether a communication path exists to the I/O controller within the I/O enclosure" as required in, for example, claim 1.

Each of the remaining currently pending independent claims recite limitations that are similar to these limitations of amended claim 1, and/or claim 20, although some differences may exist among the limitations of the other pending independent claims. These similar limitations nevertheless patentably distinguish the claims over Fredin in view of Beard.

Fredin discloses a method for interconnecting independent fibre channels. The Examiner acknowledges that that "Fredin is silent with respect to sending a verification message to the I/O enclosure to determine whether a communication path exists and thereafter loading a driver into the host". The Examiner cites Beard for teaching this element. However, Applicant respectfully disagrees with the Examiner that Beard teaches "before loading a driver for the I/O controller into the host, sending a verification message to the I/O enclosure, via the

interconnection fabric, to determine whether a communication path exists to the I/O controller within the I/O enclosure". For example, Beard does not disclose, at the least, "before loading a driver for the I/O controller into the host, sending a verification message to the I/O enclosure ... to determine whether a communication path exists to the I/O controller", as required by Applicant's claimed invention. Instead, Beard teaches away from this limitation in that the configuration manager can "determine[s] that a device driver is already loaded in host computer system memory" (Beard, column 9, lines 1-2). Beard, therefore, does not require "sending a verification message to the I/O enclosure" "before loading a driver for the I/O controller", as required by the Applicant's claimed invention.

Furthermore, neither Fredin, nor Beard, nor their combination, provide motivation to one of ordinary skill in the art to modify their teachings so as to produce Applicant's claimed invention. For example, Fredin teaches a system for interconnecting a plurality of independent fibre channels, and Beard teaches a system to couple multiple peripheral devices to a single port of a computer. Fredin is directed to solving a problem with the expense of interconnecting independent fibre channels, and Beard is directed to attaching different types and multiple peripheral devices to a single computer port.

MPEP §2142 states "To reach a proper determination under 35 U.S.C. §103, the examiner must step backward in time and into the shoes worn by the hypothetical 'person of ordinary skill in the art' when the invention was unknown

and just before it was made. In view of all factual information, the examiner must then make a determination whether the claimed invention 'as a whole' would have been obvious at that time to that person."

Applicant respectfully submits that it would not have been obvious to a "person of ordinary skill in the art" to combine the teachings of Fredin and Beard to produce the Applicant's claimed invention. Neither Fredin nor Beard, nor their combination addresses a need to solve the problems associated with loading a driver for an I/O controller before a communication path is established, as addressed by Applicant's claimed invention (see, for example, Specification, p. 2, lines 3-6, and p. 16, lines 12-15). Furthermore, since Fredin assumes connectivity of its devices to the fibre channels, there would be and is no motivation in either Fredin nor Beard, to combine it with teachings showing how to connect devices as disclosed in Beard.

Thus, since neither Fredin, nor Beard, nor their combination, teaches or suggests the claimed invention, it is respectfully submitted that the Examiner has failed to establish prima facie that claims 1, 3-5, and 20 are obvious over Fredin in view of Beard. Thus, it is respectfully submitted that the Examiner's rejection of these claims under 35 U.S.C. §103(a) as obvious in view of Fredin and Beard should be withdrawn.

*Fredin et al. in view of Beard et al. and in further view of Muller et al.*

Claims 2, 6-19, and 21-25 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Fredin, et al. (U.S. Patent No. 6,529,963) in view of

Beard (U.S. Patent No. 5,991,830) and in further view of Muller, et al. (U.S. Patent No. 6,256,740).

Since each of claims 2, 6-19, and 21-25 either comprise similar limitations to claims 1, 3-5, and 20, and/or depend from independent claims 1, 3-5, and 20, and therefore inherit the limitations of their respective, independent claims, and since it is believed that claims 1, 3-5, and 20 are patentably distinguishable over Fredin in view of Beard for the reasons discussed above, Applicant respectfully submits that claims 2, 6-9, and 21-25 are also patentably distinguished over Fredin in view of Beard, and further in view of Muller.

Muller discloses a method for communicating data in a highly distributed parallel processing computer architecture (Muller, Abstract). Muller, however, does not disclose "determining if the given host-fabric adapter has been initialized for fabric communication, and if the given host-fabric adapter has been initialized for fabric communication, loading a driver that corresponds to the given fabric-attached I/O controller assigned to the host, into the host for communication with the fabric-attached I/O controller, via the interconnection fabric", as required in, for example, claim 20. Muller also does not disclose "before loading a driver for the I/O controller into the host, sending a verification message to the I/O enclosure, via the interconnection fabric, to determine whether a communication path exists to the I/O controller within the I/O enclosure" as required in, for example, claim 1.

Thus, since neither Fredin, nor Beard, nor Muller, nor their combination, teaches or suggests the claimed invention, it is respectfully submitted that the Examiner has failed to establish prima facie that claims 2, 6-9, and 21-25 are obvious over Fredin in view of Beard and Muller. Thus, it is respectfully submitted that the Examiner's rejection of these claims under 35 U.S.C. §103(a) as obvious in view of Fredin, Beard, and Muller should be withdrawn.

### **Conclusion**

Applicant respectfully submits that the claims as amended are in condition for allowance. Therefore, allowance at an early date is respectfully requested.

The Examiner is invited to initiate an interview with the undersigned by calling 949-498-0601 if the Examiner believes that such an interview will advance prosecution of this application.

### **Request for an Extension of Time**

Applicant respectfully petitions for a one (1) month extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a). Please charge our Deposit Account No. 50-0221 to cover any necessary fee under 37 C.F.R. § 1.17(a) for such an extension.

**Charge our Deposit Account**

Please charge any shortage to our Deposit Account No. 50-0221.

Respectfully submitted,

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Libby H. Hope, Patent Attorney  
Reg. No. 46,774  
Patent Practice Group  
INTEL CORPORATION

c/o Blakely, Sokoloff, Taylor & Zafman  
12400 Wilshire Boulevard  
7<sup>th</sup> Floor  
Los Angeles, California 90025-1030  
(949) 498-0601